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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,827	01/21/2004	Xiuli Sun	20039.000211/SH119/04007A	4455
26694	7590	02/15/2006		EXAMINER
VENABLE LLP				LU, C CAIXIA
P.O. BOX 34385				
WASHINGTON, DC 20045-9998			ART UNIT	PAPER NUMBER
			1713	

DATE MAILED: 02/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/761,827	SUN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Caixia Lu	1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 January 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 12-40 is/are pending in the application.
- 4a) Of the above claim(s) 14, 16 and 34-40 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 12, 13, 15, 17-33 is/are rejected.
- 7) Claim(s) 27 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/21/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I and species disclosed in claim 27, in the reply filed on January 9, 2006 is acknowledged. Applicants have indicated that claims 12, 13, 15, 17-33 read on the elected invention.
2. The search results indicate that the elected species of claim 27 are novel, the search is now extended to species A-7 of claim 26.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 12, 13, 15, 17-26 and 28-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12, line 13, the connector "or" is missing after the term "Se".

Claim 19, the term "and" is missing in the front of the term "oxygen".

Claim 20, (i) the complexes of line 3 lack antecedences in that component "D" and dative bond "→" between "B" and "D" of the generic structure of claim 12 are required, however, they are not existed in the species of the metal complexes of the instant claim, and (ii) the term "phosphorous atom-containing moiety" in the last line does not have antecedence because component "F" is equivalent to "D" of claim 12 and D can not be the "phosphorous atom-containing moiety" of claim 20.

Claims 21-23, the complexes of the instant claims lack antecedence in that component "D" and dative bond " $\rightarrow$ " between "B" and "D" of the generic structure of claim 12 are required, however, they are not existed in the species of the metal complexes of the instant claim.

Claims 24 and 25, the tridentate ligands lack antecedences those listed structures represent neutral compounds rather than ligands carrying negative charges.

Claims 26 and 27, the metal complexes of the instant claims do not have antecedences in that component "D" and dative bond " $\rightarrow$ " between "B" and "D" of the generic structure of claim 12 is required, however, such component is not existed in the species of the metal complexes of the instant claims.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claim 26 is rejected under 35 U.S.C. 102(a) as being anticipated by Ittel et al. (US 6,531,424).

The titanium metal complex of Ittel's Example 8 encompasses the metal complex A-7 of the instant claims.

***Allowable Subject Matter***

7. Claim 26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Ittel et al. (US 6,531,424) teaches a transition metal complex of formula (IV) (col. 2) similar to those of the instant claim 27; however, Ittel does not teach or reasonably suggest group "Z" bridging "N" and "Q" to be the phenylene bridge as those in the complex structures of the instant claims. Therefore, transition metal complexes of claim 27 are deemed to be novel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caixia Lu whose telephone number is (571) 272-1106. The examiner can normally be reached from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful and the matter is urgent, the examiner's supervisor, David Wu, can be reached at (571) 272-1114. The fax numbers for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1700.



Caixia Lu, Ph. D.  
Primary Examiner  
February 11, 2006